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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. 03-00486DAE
)	
Plaintiff,)	
)	
vs.)	
)	
ROY ROOSEVELT, JR.,	(02))	
)	
Defendant.)	
)	

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE KEVIN S.C. CHANG
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE
ON JULY 9, 2004

APPEARANCES:

For Plaintiff

BEVERLY WEE SAMESHIMA, ESQ.
Office of the U.S. Attorney
300 Ala Moana Blvd., Room 6100
Honolulu, HI 96850

For Defendant

MICHAEL A. WEIGHT, ESQ.
Office of the Federal Public
Defender
300 Ala Moana Blvd., Room 7102
Honolulu, HI 96850

Transcriber

JUVELYNN PUNZAL

Proceedings recorded by electronic sound recording,
transcript produced by transcription service.

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THE CLERK: Criminal number 03-486DAE, United States of America versus Defendant (02) Roy Roosevelt Ryder, Jr. This case has been called for a hearing on a motion for withdrawal of not guilty plea and to plead anew.

MS. SAMESHIMA: Yes, good afternoon, Your Honor. Beverly Wee Sameshima on behalf of the United States.

THE COURT: Good afternoon.

MR. WEIGHT: Good afternoon, Your Honor. Michael Weight for the defendant. Mr. Ryder is here. We're ready to do the change of plea.

THE COURT: Good afternoon.

Mr. Ryder, is it your intention this afternoon to plead guilty to Counts I and II of the Indictment?

MR. RYDER: Yes.

THE COURT: Before I can accept your guilty plea, I must know that you understand what you're doing.

MR. RYDER: Yes.

THE COURT: That you're pleading guilty freely and involuntarily, that there's a factual basis for your change of plea, and that the end of justice would be met to allow you to change your plea.

To make sure that you understand, I'm going to ask you some questions. If you do not understand any of the words or the questions, will you please say so?

1 MR. RYDER: Yes.

2 THE COURT: Would you administer the oath?

3 THE CLERK: (Administers oath to defendant.)

4 THE COURT: Mr. Ryder, what is your full name?

5 MR. RYDER: Roy Roosevelt Ryder, Jr.

6 THE COURT: And how old are you?

7 MR. RYDER: Twenty-eight.

8 THE COURT: How far did you go in school?

9 MR. RYDER: Seventh grade.

10 THE COURT: Have you taken any medication,
11 alcohol, or drugs of any kind today?

12 MR. RYDER: No.

13 THE COURT: Do you feel well and alert today?

14 MR. RYDER: Yes.

15 THE COURT: Do you understand what is going on?

16 MR. RYDER: Yes.

17 THE COURT: Have you been treated recently for any
18 mental illness or addiction to narcotic drugs of any kind?

19 MR. RYDER: No

20 THE COURT: Mr. Weight, to the best of your
21 knowledge, is the defendant fully competent to enter a valid
22 plea today?

23 MR. WEIGHT: Yes, he is.

24 THE COURT: The Court finds that the defendant is
25 fully competent and capable of entering an informed plea.

1 Mr. Ryder, if you choose to enter a guilty plea in
2 this case, you have the right to enter that plea before a
3 United States District Judge. If you consent, however, you
4 may enter your guilty plea before me, a United States
5 Magistrate Judge. If you enter a guilty plea hear today,
6 Judge Ezra would impose sentence at a later hearing. Do you
7 understand that?

8 MR. RYDER: Yes.

9 THE COURT: I have before me a document entitled,
10 "Consent to Rule 11 Plea in a Felony Case Before United
11 States Magistrate Judge."

12 Mr. Ryder, did you sign this form?

13 MR. RYDER: Yes.

14 THE COURT: Is it your wish to consent to enter
15 your plea before me, a Magistrate Judge, and to give up or
16 waive your right to enter that plea before a United States
17 District Judge?

18 MR. RYDER: Yes.

19 THE COURT: Mr. Weight, have you discussed the
20 consent form with your client?

21 MR. WEIGHT: I have.

22 THE COURT: And are you satisfied that he
23 understands it?

24 MR. WEIGHT: Yes.

25 THE COURT: Have you also signed the document?

1 MR. WEIGHT: I have.

2 THE COURT: The Court finds that the defendant has
3 consented to enter his plea before a United States
4 Magistrate Judge.

5 Mr. Ryder, have you received a copy of the
6 Indictment pending against you, that is the written charges
7 made against you in this case?

8 MR. RYDER: Yes.

9 THE COURT: Have you fully discussed the charges
10 and all of the facts surrounding the charge with Mr. Weight,
11 your attorney?

12 MR. RYDER: Yes.

13 THE COURT: Have you also received a copy of the
14 Special Information that was filed against you in this case?

15 MR. RYDER: This one?

16 THE COURT: The Special Information which alleges
17 that you were -- that you would be subject to enhanced
18 sentencing based upon a prior felony drug offense in the
19 First Circuit Court.

20 MR. RYDER: I understand (unintelligible).

21 THE COURT: Have you discussed all of the facts
22 and circumstances surrounding the charge with Mr. Weight,
23 your attorney?

24 MR. RYDER: Yes.

25 THE COURT: Are you fully satisfied with the

1 representation that you've received from Mr. Weight, your
2 attorney in this case?

3 MR. RYDER: Yes.

4 THE COURT: Mr. Weight, are the defendant's guilty
5 pleas before the Court today pursuant to your advice and
6 recommendation?

7 MR. WEIGHT: They are, Your Honor.

8 THE COURT: Mr. Ryder, has anyone made any promise
9 or assurance of any kind to you in an effort to get you to
10 plead guilty?

11 MR. RYDER: No.

12 THE COURT: Has anyone attempted in any way to
13 force you to plead guilty or to pressure you or threaten you
14 in any way?

15 MR. RYDER: No.

16 THE COURT: Ms. Sameshima, what are the maximum
17 possible penalties with regards to Counts I and II?

18 MS. SAMESHIMA: Yes, Your Honor. The maximum
19 penalties would be life in prison and the minimum penalties
20 with the Special Information would be twenty years mandatory
21 minimum imprisonment. The terms of supervised release would
22 be minimum of ten years up to life. And with respect to the
23 fine, it would be I believe eight -- zero to eight million
24 dollars and there is a special assessment for each count of
25 \$100 for a total of \$200.

1 THE COURT: Mr. Weight, do you agree with that
2 summary as to the possible penalties?

3 MR. WEIGHT: I agree that that is the correct
4 statement of the penalties.

5 THE COURT: Mr. Ryder, do you agree with that --
6 do you understand that these are the possible penalties
7 which would apply if you entered guilty pleas to the charges
8 in this case?

9 MR. RYDER: Yes.

10 THE COURT: If you are convicted with more than
11 one offense, the Court has the authority to order
12 consecutive sentences. If the Court did so, it would mean
13 that you would have to serve those sentences one at a time.
14 Do you understand that?

15 MR. RYDER: Yes.

16 THE COURT: During the period of supervised
17 release, you must comply with the set of conditions which
18 will be explained to you by a probation officer. Those
19 conditions will include requirements that you will obey the
20 law, that you report as required to the probation officer,
21 and other conditions. If the Court finds that you violated
22 any of those conditions, you could be required to serve
23 additional prison time. Do you understand that?

24 MR. RYDER: Yes.

25 THE COURT: Are you presently on probation,

1 parole, or supervised release from any other case?

2 MR. RYDER: Yes.

3 THE COURT: And that's in the First Circuit Court,
4 yes?

5 MR. RYDER: Yes.

6 THE COURT: Do you understand that if you plead
7 guilty to the present charges, this might result in some
8 adverse action being taken with regards to your probation
9 from State court?

10 MR. RYDER: Yes.

11 THE COURT: Ms. Sameshima, does the United States
12 contend that any felony offense to which the defendant is
13 today enter a guilty plea accrue while he was released on
14 bond in relation to some other federal criminal charge?

15 MS. SAMESHIMA: No. No, Your Honor, not on
16 federal charge. And, Your Honor, I probably wasn't clear,
17 but the penalties that I recited are with respect to both
18 Counts I and II.

19 THE COURT: Yes. You -- you understand that, Mr.
20 Ryder?

21 MR. RYDER: Yes.

22 THE COURT: If you are convicted of the charges in
23 this case, you may lose valuable civil rights including the
24 right to vote, the right to hold public office, the right to
25 serve on a jury, and the right to possess any kind of a

1 firearm. Do you understand that?

2 MR. RYDER: Yes.

3 THE COURT: The United States Sentencing
4 Commission has issued guidelines for judges to use in
5 determining the sentence in a criminal case. Mr. Ryder,
6 have you and your attorney talked about how those guidelines
7 might apply in your case?

8 MR. RYDER: Yes.

9 THE COURT: Do you understand that Judge Ezra may
10 be calculating your sentence based on guidelines issued by
11 the United States Sentencing Commission and that the
12 validity of the sentencing guidelines is being challenge
13 based on the recent United States Supreme Court decision?

14 MR. RYDER: Yes.

15 THE COURT: If the sentencing guidelines are found
16 to be invalid, Judge Ezra will determine your sentence based
17 on admissions that you made at this change of plea hearing.
18 Do you understand that?

19 MR. RYDER: Yes.

20 THE COURT: That is, if you admit to certain facts
21 at this change of plea hearing, Judge Ezra will rely on
22 those admissions at the time of sentencing and that your
23 admissions may increase your sentence. Do you understand
24 that? Yes?

25 MR. RYDER: Yes.

1 THE COURT: Do you understand that you do not have
2 to admit to factual matters in dispute, but if you make
3 admissions now, those admissions may affect your ability to
4 take advantage of possible developments in the law between
5 now and the time of you sentencing?

6 MR. RYDER: Yes.

7 THE COURT: Mr. Ryder, do you understand that the
8 Court will not be able to determine the guideline sentence
9 for your case until after the presentence report has been
10 completed and you and the government have had an opportunity
11 to challenge the reported facts and the application and the
12 application of the guidelines recommended by the probation
13 officer, and that the sentenced imposed may be different
14 from any estimate your attorney may have given you?

15 MR. RYDER: Yes.

16 THE COURT: Do you also understand that after your
17 guideline range has been determined, the Court has the
18 authority in some circumstances to depart from the
19 guidelines and to impose a sentence that is more severe or
20 less severe than the sentence called for by the guidelines?

21 MR. RYDER: Yes.

22 THE COURT: If the sentence is more severe than
23 you expected, you will still be bound by your plea. Even if
24 you do not like the sentence imposed by the Court, you will
25 not be able to withdraw your plea. The time to make that

1 decision is now. Do you understand that?

2 MR. RYDER: Yes.

3 THE COURT: Parole has been abolished. If you are
4 sentenced to prison, you will not be released on parole. Do
5 you understand that?

6 MR. RYDER: Yes.

7 THE COURT: You have a right to plead not guilty
8 to any offense charged against you and to persist in that
9 plea. You will then have a right to trial by jury. During
10 that trial, you would have the right to assistance of
11 counsel for your defense, the right to see and hear all the
12 witnesses and to have your attorney cross-examine them, the
13 right to testify yourself or to decline to testify and
14 remain silent, and the right to have the Court issue
15 subpoenas for any witnesses you wish to call in your
16 defense.

17 At the trial you would be presumed to be innocent
18 and the United States would have the burden of proving that
19 you are guilty beyond a reasonable doubt. Before you can be
20 convicted, all twelve jurors must be convinced that the
21 United States has met that burden. If you are found guilty
22 after trial, you would have the right to appeal that
23 conviction to a higher court, and if you could not afford to
24 pay the cost of an appeal, the government would pay those
25 costs for you.

1 Do you understand that?

2 MR. RYDER: Yes.

3 THE COURT: If you plead guilty, however, and if
4 the Court accepts that plea, there will be no trial. You
5 will be waiving or giving up your right to a trial and all
6 of the other rights I have described. Do you understand
7 that?

8 MR. RYDER: Yes.

9 THE COURT: Also, so long as you plead not guilty,
10 you have the right to remain silent; but if you plead
11 guilty, you are waiving that right. I will ask you some
12 questions about what occurred and you must answer those
13 questions truthfully under oath even if your answers
14 establish that you committed a crime. Do you understand
15 that?

16 MR. RYDER: Yes.

17 THE COURT: Ms. Sameshima, would you summarize for
18 the Court and the defendant the essential elements which the
19 United States would be required to prove if there were trial
20 on the charges?

21 MS. SAMESHIMA: Yes, Your Honor.

22 With respect to Count I, which is the conspiracy
23 court charging the defendant with conspiracy to distribute
24 and possess with intent to distribute 50 grams or more of
25 methamphetamine, its salts, isomers and salts and its

1 isomers, the government would have to prove beyond a
2 reasonable doubt the existence of an agreement between the
3 defendant and at least one other individual to commit and
4 illegal objective, in this case the distribution and
5 possession with intent to distribute 50 grams or more of
6 methamphetamine; that the defendant was a member of this
7 conspiracy and intended to accomplish one of the objectives
8 and that the conspiracy involved 50 grams or more. Although
9 it is not an essential element, this is a material fact that
10 we would still have to prove beyond a reasonable doubt that
11 the conspiracy involved 50 grams or more of pure
12 methamphetamine.

13 With respect to Count II, the charge that
14 defendant knowingly possessed with intent to distribute a
15 controlled substance, the government would have to prove
16 first that the defendant knowingly possessed a controlled
17 substance, in this case methamphetamine, and that he
18 possessed it with intent to deliver it to another individual
19 and, third, that again a material fact that the possession
20 with intent to distribute did involve 50 grams or more of
21 methamphetamine.

22 THE COURT: Mr. Weight, do you disagree in any
23 respect with that summary?

24 MR. WEIGHT: No, that is a correct summary for
25 each offense.

1 THE COURT: Mr. Ryder, do you understand that if
2 there were trial on the charges, the United States would be
3 required to present evidence sufficient to prove each of
4 these essential elements beyond a reasonable doubt with
5 regards to each of the offenses charged?

6 MR. RYDER: Yes

7 THE COURT: Ms. Same -- Ms. Sameshima, would you
8 also state any additional elements which the government
9 would be required to prove either by a preponderance of the
10 evidence or by proof beyond a reasonable doubt to establish
11 the basis for any enhancement of the defendant's sentence?

12 MS. SAMESHIMA: I can't think of any right now
13 although I know that there was a gun that was found in the
14 vehicle. But I guess the Court is trying to address the
15 Blakely issue at this point and I guess the government's
16 position is that Blakely does not apply to the federal
17 guidelines. However, if at some point any court does find
18 that they do apply, the government's position would be then
19 the entire guideline scheme would be unconstitutional and,
20 therefore, we would ask the Court to sentence the defendant
21 just with the statutory maximum.

22 So that's the government's position. So I'm not
23 in a position at this point to indicate that we agree that
24 Blakely requires us to prove certain enhancements and I
25 would ask the Court to also go through the Thomas waiver.

1 THE COURT: I will.

2

3 MS. SAMESHIMA: Thank you.

4

5 THE COURT: Mr. Weight, any comment with regards
to Ms. Sameshima's last comments?

6

7 MR. WEIGHT: No, Your Honor. The defendant is
8 prepared this afternoon to enter a plea of guilty to the
elements as charged in the Indictment, no more, no less.

9

10 THE COURT: Mr. Ryder, you've been charged in
11 Count I of the Indictment with a violation of Title 21
12 United States Code Section 846 which charges you with
13 conspiring to distribute and possess to distribute 50 grams
14 or more of methamphetamine, its salts, isomers or salts and
its isomers. Do you understand this charge?

15

MR. RYDER: Yes.

16

17 THE COURT: Pursuant to Title 21 United States
18 Code Section 841(b)(1)(A), this charge carries a mandatory
19 minimum sentence of ten years and a maximum period of
imprisonment of life. Do you understand that?

20

MR. RYDER: Yes.

21

22 THE COURT: There is also because of the Special
23 Information that's been filed in this case, the mandatory
24 minimum -- there is a 20-year mandatory term of imprisonment
25 instead of a mandatory minimum of 10 years. Do you
understand that?

1 MR. WEIGHT: Your Honor, with respect to that, I
2 would respectfully point out to the Court that the issue of
3 the applicability of that section may be in question in view
4 of the fact that (unintelligible), the case that says that
5 it still applies itself is now in question and that may be
6 litigated in the future to determine that it doesn't apply.
7 We're aware that as it stands now that -- that my client is
8 -- does have filed against him Special Information and he is
9 aware of that and he is aware of how it might apply.

10 THE COURT: Mr. Ryder, is what Mr. Weight told me
11 correct?

12 MR. RYDER: Yes.

13 THE COURT: Do you understand this?

14 MR. RYDER: Yes, sir.

15 THE COURT: So do you understand that if that
16 situation as described by Mr. Weight were to apply, the
17 mandatory minimum in this case would be 20 years as opposed
18 to 10 years?

19 MR. RYDER: Yes.

20 THE COURT: In order for you to be punished under
21 either of the 10- or the 20-year mandatory minimum, the
22 government has the burden of proving to a jury beyond a
23 reasonable doubt that you possessed with intent -- excuse
24 me, that you conspired to distribute 50 grams or more of
25 methamphetamine, its salts, isomers, and salts and its

1 isomers. Do you understand that?

2 MR. RYDER: Yes.

3 THE COURT: Do you waive your right to have a jury
4 determine both drug type and drug quantity with regards to
5 Count I in this case?

6 MR. WEIGHT: Your Honor, with that respect -- in
7 that respect, we waive -- we -- we do not waive anything.
8 We plead guilty to his conspiring to possess 50 grams or
9 more of methamphetamine as charged in the Indictment.

10 MS. SAMESHIMA: And, Your Honor, it's the
11 government's position that -- would be that we want to just
12 preserve our objection to the Court accepting a plea which
13 would preserve the defendant's right to a jury trial on the
14 quantity and waive with respect to the mandatory minimum
15 because it's our view that Blakely would not -- would not
16 affect the mandatory minimum. So that extent, we want to
17 object to the acceptances of plea to that extent, but I --
18 but I don't think we can stop this from going forward.

19 THE COURT: Well, let me do this, Mr. Weight, so
20 that the record is complete. Let me just go back and go
21 through the Thomas colloquy with regards to Count II because
22 I'm going to come to the same point with regards to Counts I
23 and II.

24 In Count II of the Indictment, Mr. Ryder, you're
25 charged with a violation of Title -- Title 21 United States

1 Code Section 841(a)(1) and (b)(1)(A) which charges you with
2 possession with intent to distribute 50 grams or more of
3 methamphetamine, it's salts, isomers and salts and its
4 isomers. Do you understand the charge?

5 MR. RYDER: Yes.

6 THE COURT: Pursuant to Title 21 United States
7 Code Section 841(b)(1)(A), this charge carries a mandatory
8 minimum sentence of 10 years and maximum period of
9 imprisonment of life. Do you understand this?

10 MR. RYDER: Yes.

11 THE COURT: In this case, the government has filed
12 a Special Information which may increase or change the
13 mandatory minimum sentence from 10 years to 20 years and a
14 maximum period of life. Do you understand that?

15 MR. RYDER: Yes.

16 THE COURT: In order for you to be so punished,
17 the government has the burden of proving to the jury beyond
18 a reasonable doubt that you possessed with intent to
19 distribute 50 grams or more of methamphetamine, its salts,
20 isomers and salts and its isomers. Do you understand that?

21 MR. RYDER: Yes.

22 THE COURT: All right. As with regards to Count
23 II, now with regards to Count -- excuse me. As in the case
24 of Count I and now with regards to Count II, do you waive
25 the right to have a jury determine both drug type and

1 quantity in this case?

2 MR. WEIGHT: The answer is no.

3 MR. RYDER: No.

4 THE COURT: Mr. Weight?

5 MR. WEIGHT: Your Honor, again, the defendant is
6 here to enter a plea of guilty as charged in the Indictment
7 in both Counts I and Count -- Counts I and II. He is
8 pleading guilty to conspiring to possess with intent to
9 distribute 50 grams of methamphetamine on the date in
10 question and the substantive count of actually possessing
11 with intent to distribute 50 grams on that date. That's
12 what we're pleading to.

13 MS. SAMESHIMA: Your Honor, I'll just note the
14 similar objection we made earlier.

15 THE COURT: All right. Is there any objection, in
16 addition to what's already been stated by the government and
17 the defense, to our proceeding with the plea at this time?

18 MR. WEIGHT: No.

19 MS. SAMESHIMA: No, Your Honor.

20 THE COURT: All Right. Mr. Ryder, would you tell
21 me in your own words what you did that constitutes the crime
22 charged in Count I of the indictment?

23 MR. WEIGHT: Just -- if I might have just a
24 moment, Your Honor?

25 THE COURT: Sure. Um hmm.

1 MS. SAMESHIMA: Your Honor, before we go forward,
2 I just don't want to be confusing, but I -- I do object to
3 it going forward. But I guess my position is, I don't think
4 under the law I can prevent the plead from going forward,
5 but I have to make the objection.

6 THE COURT: Understood.

7 MS. SAMESHIMA: Okay.

8 THE COURT: Mr. Ryder, with regards to Count I,
9 what did you do?

10 MR. RYDER: I drove the car on September 22nd to
11 where they're supposed to be, the guy who sell them and
12 distribute (unintelligible).

13 THE COURT: Were you in agreement with defendant
14 Young?

15 MR. WEIGHT: In reference to the preparation or
16 distribution?

17 THE COURT: Yes.

18 MR. RYDER: Yeah.

19 THE COURT: And the purpose of your agreement was
20 or the objective of your agreement was?

21 MR. RYDER: To assist Matt.

22 THE COURT: To assist Matt in doing what?

23 MR. RYDER: Driving him.

24 THE COURT: Driving him to do what?

25 MR. RYDER: To sell them.

1 THE COURT: So you and Matt intended to sell the
2 50 grams or more of methamphetamine, yes?

3 MR. RYDER: Yes.

4 THE COURT: Are you satisfied with Count I, Ms.
5 Sameshima?

6 MS. SAMESHIMA: I -- I think I'm a little bit
7 unclear because as I understand it, Mr. Ryder earlier on
8 September 22nd, 2003 drove with Mr. Young and another
9 individual to another -- to meet with another individual for
10 the purpose of purchasing a pound which they then later took
11 to another individual's house, actually broke it down and
12 weighed it for distribution. And I -- I didn't really get
13 that from what he said, but if -- if he's agreeing that
14 that's the case, then I think there's enough evidence.

15 MR. WEIGHT: Your Honor, as I understand the
16 conspiracy, the conspiracy is that in the course of Matt
17 Young's distribution of or attempt to distribute a quantity,
18 50 grams or more of methamphetamine, to a third party that
19 Mr. Ryder helped him and that's what he said that he helped
20 him by driving the car and he knew that that was the purpose
21 of them going into the location where they went.

22 In addition, I believe my client is prepared to
23 admit that earlier in the day he had assisted Matt Young
24 weighing 50 grams or more of methamphetamine that turned out
25 to be Mr. Young's according to Mr. Young's statements to the

1 police.

2 MS. SAMESHIMA: Oh, wait a minute now. Can I --
3 can we have a break, Your Honor?

4 THE COURT: Sure.

5 MS. SAMESHIMA: Because --

6 MR. WEIGHT: Your Honor, let me restate the facts
7 to make sure that we're clear on this.

8 Earlier in the day on the date in question, which
9 is the 22nd of September last year, it's my understanding
10 that Mr. Ryder is prepared to admit that earlier that day he
11 had accompanied Mr. Young when Mr. Young purchased a
12 quantity of drugs, 50 grams of methamphetamine or more. And
13 that on that date Mr. Ryder assisted Mr. Young by weighing
14 and breaking down the quantity of drugs, 50 grams or more,
15 of methamphetamine that was later taken to the Windward City
16 Shopping Center with Mr. Ryder driving the car for Mr. Young
17 to make a delivery to the third party.

18 MS. SAMESHIMA: That's fine. I'm satisfied with
19 that if -- if that's what Mr. Ryder is also saying.

20 MR. WEIGHT: Yes.

21 MS. SAMESHIMA: Okay.

22 MR. WEIGHT: Yeah.

23 THE COURT: So the record is clear, did you hear
24 what Mr. Weight just told the Court?

25 MR. RYDER: Yes.

1 THE COURT: And Ms. Sameshima?

2 MR. RYDER: Yes.

3 THE COURT: Is what he told me true and correct?

4 MR. RYDER: True and correct, yes.

5 THE COURT: Then with regards to Count II, Mr.
6 Weight, would that proffer also apply?

7 MR. WEIGHT: It would.

8 THE COURT: With regards to Count II of the
9 Indictment, Mr. Ryder, the facts that Mr. Weight just told
10 me, you would agree that those facts also applied to Count
11 II of the Indictment?

12 MR. RYDER: Yes.

13 THE COURT: Ms. Sameshima, are you satisfied?

14 MS. SAMESHIMA: I'm satisfied, Your Honor.

15 THE COURT: All right. Mr. Ryder, then how do you
16 now plead to the charge in Count I of the Indictment filed
17 on October 1, 2003, guilty or not guilty?

18 MR. RYDER: Guilty.

19 THE COURT: And how do you plead to the charge in
20 Count II of the Indictment, guilty or not guilty?

21 MR. RYDER: Guilty.

22 THE COURT: Mr. Weight, are you aware of any
23 reason why the Court should not accept the defendant's
24 guilty pleas?

25 MR. WEIGHT: No.

1 THE COURT: The Court finds that the defendant has
2 -- the Court finds that the defendant is fully competent and
3 capable of entering an informed pleas, that his pleas of
4 guilty are knowing and voluntary and supported by an
5 independent basis and fact containing each of the essential
6 elements of the offenses. I am therefore signing the report
7 and recommendation concerning plea of guilty. Pursuant to
8 Rule 11(e), sub. 2, of the Federal Rules of Criminal
9 Procedure, I recommend that the defendant be adjudged guilty
10 and have sentence imposed. Objections to this report and
11 recommendation are waived unless filed and served within ten
12 days.

13 Mr. Ryder, I'm ordering our probation department
14 to prepare a presentence report in this case. This is a
15 document about you and about this case which will assist the
16 judge in sentencing. The probation officer will interview
17 you. If you wish, your attorney may be present at that
18 interview. You and your attorney will have the opportunity
19 to read the report before sentencing and to file any written
20 objections to its contents. You and your attorney will also
21 have the opportunity to address the judge at the hearing
22 before the judge imposes sentence.

23 Date and time?

24 THE CLERK: Sentencing to Counts I and II of the
25 Indictment is March 28, 2005 at 3:00 p.m., Judge Ezra.

1 THE COURT: The defendant to re -- to remain in
2 custody pending sentencing pursuant to the earlier detention
3 order in this case.

4 Anything further, Ms. Sameshima?

5 MS. SAMESHIMA: No. Nothing further, Your Honor.
6 Thank you.

7 THE COURT: Mr. Weight?

8 MR. WEIGHT: No, Your Honor.

9 THE COURT: We'll be in recess.

10 (Proceedings concluded.)
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STATE OF HAWAII)
)
CITY AND COUNTY OF HONOLULU) ss.

I, JUVELYNN PUNZAL, certified court transcriber for the United States District Court for the District of Hawaii, do hereby certify that the foregoing is a true and accurate transcript from the electronic sound recording of the proceedings had in connection with the above entitled cause and was transcribed by me to the best of my ability.

DATED at Honolulu, Hawaii this 23rd day of
August, 2004.

Juvelynn Punzal, Transcriber